

REMARKS

The foregoing amendment and remarks which follow are responsive to the initial, non-final Office Action mailed May 19, 2004 in relation to the above-identified patent application. Presently, Claims 1-13 are pending of which Claims 1-5 and 8-10 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Roatta (i.e., United States Patent Number 4,744,579). Claims 6 and 7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Roatta in view of Sakamoto (i.e., United States Patent Number 6,685,282 B2). Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Roatta in view of Hanagan (i.e., United States Patent Number 333,937,291) and Claims 12 and 13 were rejected under 35 U.S.C. § 102(a) as being unpatentable over Roatta. The Examiner further cited certain informalities appearing in the claims, namely Claims 1 and 3, and directed Applicant to correct the same.

By this amendment, Applicants have more clearly claimed the subject matter which they regard as the invention, as well as have readily distinguished the same over the cited references. In this regard, Applicants respectfully submit that none of the cited references, either taken alone or in combination, teach a motorized cycle having a frame with upper and lower portions with a generally vertical, intermediate frame portion disposed therebetween and extending upwardly such that a first void is defined between the front wheel and handle set of the motorized cycle and a second void is defined between said rear wheel and said seat of said motorcycle such that the first void has a length equal or greater to the diameter of the front wheel and the second void has a length equal or greater to the diameter of the rear wheel. Support for such unique features can be seen in Figures 1, 3 and 4, as well as in the specification at paragraph 22 on page 6, paragraphs 24 and 25 on page 7, and paragraph 28 on page 8.

The cited references clearly fail to disclose or suggest such elements. The primary reference, namely Roatta, at best defines voids having very minimal size, that are substantially smaller than voids "A" and "B" encompassed within the structure of the frame of the present invention. The Hanagan and Sakamoto references (or any other reference made of record for that matter) likewise fail to teach or suggest any such feature, but rather are directed to conventional motorcycle frame construction and/or motorcycle operations.

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As is well-known, a prior art reference cannot anticipate in terms of 35 U.S.C. § 102 unless every element of the claimed invention is identically shown in a single reference. In re Bond, 15 U.S.P.Q. 2d, 1566, 1567 (Fed. Cir. 1990). Likewise, obviousness cannot be established unless the prior art provides some type of suggestion or incentive to derive the subject invention. In re Fritch, 23 U.S.P.Q. 2d, 1780 (Fed. Cir. 1992). In this case, the references relied upon do not teach or suggest all of the elements of the claims as amended herein and further, do not provide any teaching or suggestion to modify a motorcycle frame to derive the present invention as set forth in the claims as amended herein. Accordingly, Applicants respectfully submit that rejection being maintained under 35 U.S.C. § 102 and § 103 cannot now be maintained.

For the foregoing reasons, Applicants respectfully submit that the claims, as amended herein, are allowable over the cited prior art. Early notice to that effect is respectfully requested. To the extent the Examiner has any questions, requires additional information, or has any suggestions to resolve any outstanding issues that may exist, the Examiner is invited to contact Applicants' counsel at the number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 8/18/04

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